

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.1005 OF 2016

1. Joao Fernandes
57 years of age, married,
Indian National.

2. Piedade Fernandes,
54 years of age, married,
Indian National,

Both r/o. Dongrim, Tarri Vaddo,
Ilhas, Goa.

... Petitioners

V e r s u s

1. ~~Mr. Domingos Caetano Menezes~~
~~Major of age, married, Indian national~~
(Deletion carried out as per order
dated 08.02.2017).

2. Felicio Menezes,
Major of age, married, Indian National
Both r/o. Dongri, Mandur,
Ward Moddlo Vaddo, Ilhas, Goa.

... Respondents

Mr. Abhishek Sawant, Advocate for the Petitioners.

Ms. S. Kenny, Advocate for the Respondents.

Coram :- C. V. BHADANG, J.

Date :- 20th June, 2019.

ORAL JUDGMENT

1. The challenge in this petition is to the order dated 22.09.2016 passed by the Executing Court in Regular Execution Application No.15/2014/B.

2. By the impugned order, the petitioners/judgment debtors are directed to demolish the illegal construction. An execution case was filed by the decree holders for execution of the judgment and decree dated 18.11.2008 passed in Regular Civil Suit No.32/1997/B. It is a matter of record that the said judgment and decree was challenged by the petitioners before the learned District Judge in Regular Civil Appeal No.122/2018 and that appeal has been allowed on 04.05.2019 and while setting aside the judgment and decree of the trial Court, the Regular Civil Suit No.32/1997/B has been remanded back to the trial Court for a de novo trial.

3. In view of the fact that the decree which was sought to be executed itself has been set aside, the impugned order will not survive. Accordingly, the petition is allowed. The impugned order is hereby set aside.

4. Rule is made absolute in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

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